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WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

UNITED STATES OF AMERICA

CRIMINAL NO. 03-20045-7

VERSUS

CIVIL NO. 05-839

RAYNARD N. GUILLORY, JR.

JUDGE DONALD E. WALTER

MAGISTRATE JUDGE HORNSBY

O R D E R

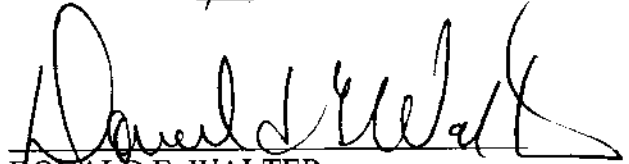
Before this Court is a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [Doc. #271], filed on behalf of defendant, wherein defendant alleges that his sentence was excessive in light of the "safety valve" benefits of 18 U.S.C. § 3553 (e) & (f) of the Sentencing Guidelines. Defendant also claims his counsel was ineffective by failing to inform defendant of his right to appeal this Court's sentence.

Under 28 U.S.C. § 2255, a defendant has one year from the date of final judgment to file a § 2255 motion. Defendant's judgment was final on March 8, 2004, and this Motion was filed on May 16, 2005. However, defendant asserts that the one year statute of limitations should not apply in the present case due to the ineffective assistance of counsel. Specifically, defendant asserts that trial counsel never advised defendant of his right to appeal the sentence. Although the Court finds defendant's motion was untimely filed, the record shows that this Court notified defendant of his

right to appeal during his sentencing on March 3, 2004. See Minutes of Sentencing [Doc. #231].

Accordingly, **IT IS ORDERED** that defendant's motion be and is hereby **DENIED**.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 19 day of September, 2005.

A handwritten signature in black ink, appearing to read "Donald E. Walter", written over a horizontal line.

DONALD E. WALTER

UNITED STATES DISTRICT JUDGE